In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1155

ROOSEVELT BUCHANON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner contends that the district court erroneously admitted into evidence the fact that search warrants were obtained to search his home and post office box and that the court erroneously declined to instruct the jury that coercion is a defense to a charge of murder.

After a jury trial in the United States District Court for the Eastern District of Illinois, petitioner was convicted of killing an employee of the United States Postal Service while engaged in the performance of official duties, in violation of 18 U.S.C. 1114, and of robbing mail matter or money, in violation of 18 U.S.C. 2114. Petitioner was sentenced to consecutive terms of life and 20 years' imprisonment. The court of appeals affirmed (Pet. App.).[1]

[1] "Pet. App." refers to the separate Appendix to the Petition.

The evidence showed that on March 4, 1975, a postmistress was severely beaten about the head while on duty, and four money orders and $43.32 were stolen from her post office branch (Tr. 45; Pet. App. 1). On March 11, 1975, she died from multiple skull fractures and brain lacerations (*ibid.*).

Petitioner's palm print was found on the post office counter (Tr. 66, 177; Pet. App. 2). Petitioner sent one of the stolen money orders to his girl friend (Tr. 48-49, 77-78), and used the others to pay several bills (Tr. 48-49, 83-84, 89; Pet. App. 2). Certain articles of petitioner's clothing and a wrench, found at petitioner's home, were stained with the victim's blood; the wrench also contained hair from the victim's head (Tr. 203, 209, 229-231, 240). After his arrest, petitioner admitted that he had assaulted the postmistress and stolen the money orders and cash (Tr. 99-101, 129-130, 157-158; Pet. App. 2).[2]

At trial, petitioner testified in defense to the murder charge that his actions were coerced. He stated that he was about to purchase the four money orders from the postmistress when two masked men armed with firearms and a wrench entered the post office; that one of the men struck the postmistress and then gave the wrench to petitioner and threatened to kill petitioner and petitioner's son if petitioner did not strike the postmistress; that petitioner therefore struck her several times with the wrench; and that he thereafter picked up the money orders he had intended to purchase and left the post office (Tr. 285-288; Pet. App. 3).

1. Petitioner contends that he was prejudiced by admission into evidence of the fact that a search of his

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[2]The district court found that petitioner's confession was voluntary (Tr. 20-21; Pet App. 3).

BLEED THROUGH

house and post office box were conducted pursuant to search warrants. Evidence that the government adhered to legal process and that the searches were proper, however, did no more than establish that there was probable cause for the searches. As the court below observed, "[t]he legality of a search is always relevant and the evidence that search warrants were issued, although perhaps not material in a strict sense, was not prejudicial to the defendant's case" (Pet. App. 4).

2. Petitioner contends that the court erroneously refused to instruct the jury that coercion is a defense to a charge of murder. Coercion, however, is not a defense to that charge. *R.I. Recreation Center* v. *Aetna Casualty & Surety Co.*, 177 F.2d 603, 605 (C.A. 1); *Shannon* v. *United States*, 76 F.2d 490 (C.A. 10).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

APRIL 1976.